

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, - v. - NARESH PITAMBAR, Defendant.	05 Cr. 1067 (KRK)
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PROPOSED VOIR DIRE QUESTIONS

Pursuant to Rule 24 of the Federal Rules of Criminal Procedure, the defendant, NARESH PITAMBAR ("Pitambar"), respectfully requests that the Court ask the potential jurors the following questions:

1. (During the presumption of innocence section of the Court's pretrial remarks, please include this question); Is there anyone who thinks that they cannot follow this instruction throughout the trial that Pitambar is presumed innocent?

2. Does anyone believe that just because Pitambar is sitting at the defendants' table he must have done something illegal or criminal? Does anyone believe Pitambar must be guilty of something if the federal government indicted him?

3. (During the burden of proof section of the Court's pretrial remarks, please include this question); As I have told you, the Government has the burden of proof. Pitambar is not required to present any evidence at all or call any witnesses. He is never required to prove that he is innocent. The right of a defendant not testify is an important part of our Constitution. As the Supreme Court of the United States has said:

It is not everyone who can safely venture on the witness stand though entirely innocent of the charges against him. Excessive timidity, nervousness when facing others and attempting to explain transactions of a suspicious character, and offenses charged against him, will often confuse and embarrass him to such a degree as to

increase rather than remove any prejudice against him. It is not everyone, however honest, who would therefore willingly be placed on the witness stand.

If Pitambar does not testify, the law requires that you may not attach any significance to that fact. No adverse inference may be drawn against Pitambar should he not take the witness stand. That being said, it is a natural reaction to want to hear from everybody involved. In the event Pitambar does not testify, does anybody feel that they still will have difficulty not considering that Pitambar did not testify during your deliberations as a juror on this case?

4. Have you, a family member or close friend ever worked for a law enforcement or prosecutorial agency such as, but not limited to, a United States Attorney's Office, a District or State's Attorney's Office, Dept. of Homeland Security, NYPD, FBI, DEA or any state or local police departments? If the answer is "yes", would that affect your ability to fair and impartial since members of the law enforcement may testify at this trial? Will you be able to follow my instruction that a law enforcement officer's testimony should be judged like any other witness? Does any juror feel that they would tend to believe a law enforcement officer's testimony more just based on the fact of the officer's occupation?

5. Has any juror, family member or close friend been the victim of a crime? If so, please explain (in private if desired). If "yes", would that experience affect your ability to be fair and impartial?

6. Have you or anyone close to you believed they were a victim of any type of financial fraud or identity theft?

7. If so, please describe the circumstances?

8. Does any juror have a relative or close friend who was arrested, prosecuted or the subject of a criminal investigation, complaint or indictment? If so, please explain (in private if desired). Would that affect the juror's ability to be fair and impartial?

9. Has any juror had either a positive or negative encounter with a law enforcement agency, such as Dept. of Homeland Security, FBI or NYPD? If so, please explain. Would that affect your ability to be fair and impartial?

10. Has any juror ever been named as a party to, either as a plaintiff or defendant, in any type of civil action? Please explain. Would that experience affect your ability to be fair and impartial? Also, has any juror had to ever testify as a witness in any type of formal proceeding?

11. Does anyone not have a bank account? If so, what do you do if someone gives you a check?

12. Has anyone ever cashed a check for a family member/friend or deposited a check given to you by a family member/friend? If so, why?

Thank you for Your Honor's consideration of these questions.

Respectfully submitted,

/s/
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cc: AUSA Dan Levy (via ECF)
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